

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1-28 are in the case.

I. THE ANTICIPATION REJECTION

Claims 1, 2, 10, 11 and 19 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by “Philip” (WO 97/29029) (this reference is actually in the name of “Owen” *et al.* and will be referred to hereinafter as “Owen”). The rejection is respectfully traversed.

As claimed, there is provided an apparatus for dispensing foam comprising a source of foam and a dispensing device. The dispensing device comprises an inlet in communication with the source of foam, a usable foam outlet, and a waste bleed outlet communicating with the inlet and with the useable foam outlet. The bleed outlet has a higher resistance to flow of foam than that of the usable foam outlet. As now claimed, the usable foam outlet may be blocked off such that foam may flow through the high resistance waste bleed outlet, and the usable foam outlet may be opened such that foam may flow through the usable foam outlet.

Owen (Figure 3) describes a dispenser with inlets (15a, 15b) and outlets (18a and 18b) with break-up inserts 19. However, Owen does not disclose a structure as presently claimed wherein a waste bleed outlet communicates with the inlet and the useable foam outlet. In addition, Owen does not disclose a structure in which the useable foam outlet may be blocked off such that foam may flow through the high resistance waste bleed outlet and the usable foam outlet may be opened to permit foam to also flow through the usable foam outlet. Absent a disclosure of the structure as now

claimed, it is clear that Owen is not anticipatory. Withdrawal of the anticipation rejection is respectfully requested.

II. THE OBVIOUSNESS REJECTION

Claims 1, 2, 7-11, 16-20, 22, 23, 25, 27 and 28 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Osman *et al.* (US 6,572,873) (Osman). The rejection is respectfully traversed.

The Action refers to Figures 8 and 9 of Osman which disclose an apparatus for dispensing foam comprising a source of foam (24) and a dispensing device comprising an inlet (35) a usable foam outlet (i.e., the outlet feeding into syringe 34) and a waste bleed outlet (i.e., the pipe feeding into 38). However, there is no suggestion in Osman of a structure as presently claimed wherein a waste bleed outlet communicates with the inlet and the useable foam outlet, and wherein the useable foam outlet may be blocked off such that foam may flow through the high resistance waste bleed outlet and the usable foam outlet may be opened to permit foam to also flow through the usable foam outlet. Absent any such suggestion, one of ordinary skill in the art would not have been motivated to arrive at the invention as claimed based on Osman. Osman does not give rise to a *prima facie* case of obviousness. Withdrawal of the obviousness rejection based on Osman is respectfully requested.

III. ALLOWABLE SUBJECT MATTER

It is noted, with appreciation, that claim 26 is allowed and that claims 3-6 and 12-15 are allowable. With the amendments presented herewith, it is believed that all pending are in allowable condition. Early notice to that effect is respectfully requested.

IV. AMENDMENTS

The claims have been amended to reflect amendment presented in a counterpart application in Europe. The specification has been amended to include customary heading, including a brief description of the drawings. A new Abstract is presented on a separate page which follows claim 1 as amended. No new matter is entered.

Favorable action is awaited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Leonard C. Mitchard/

Leonard C. Mitchard
Reg. No. 29,009

LCM:lff
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100